

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

EVERETT HAGER,

Movant

v.

CIVIL ACTION NO. 2:02-1353  
CRIMINAL ACTION NO. 2:00-0006-01

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER**

On July 18, 2005, Everett Hager, a federal prisoner, filed a “Notice of Appeal” of the Memorandum Opinion and Order entered on May 9, 2005, which denied his Motion to Reconsider the Court’s previous Order entered on June 25, 2003, which denied his request for relief under 28 U.S.C. § 2255. Pursuant to 28 U.S.C. § 2253(c), “[u]nless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from . . . the final order in a proceeding under section 2255.” 28 U.S.C. § 2253(c), in part. This Court has once again reviewed the record and concludes that Movant has not made a substantial showing of the denial of a constitutional right and has not presented issues “‘adequate to deserve encouragement to proceed[.]’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893, n. 4 (1983)). *See also Miller-El v. Cockrell*, 537 U.S. 322 (2003). Moreover, as explained in the Order entered on May 9, 2005, Movant has failed to give an adequate explanation of “what prevented him from seeking relief within a reasonable time after the return of his legal documents

in December, 2003." Accordingly, the Court **DENIES** a certificate of appealability. *See* 28 U.S.C. § 2253(c).

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel and the defendant, the U.S. Attorney's Office, the U.S. Probation Office, and the U.S. Marshal's Service.

ENTER: August 10, 2005

  
ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE